

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DIONISIO DINGLASA, ACCUSED-APPELLANT.

G.R. NO. 75619. April 03, 1990

Ponente: NARVASA, J.

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NARVASA, J.:

Dionisio Dinglasa was convicted of murder for killing Saturnino Niaga by hurling a rock at him. The information filed against him with the Regional Trial Court at Cebu City,[1] charging him with this felony, reads as follows:[2]

"That on or about the 21st day of August, 1977, at barrio Tolosa, Municipality of Malabuyoc, Province of Cebu, *** (said) accused, with deliberate intention to kill, evident premeditation and treachery, did *** wilfully, unlawfully and feloniously attack, assault and mercilessly *** (strike) with a piece of stone the head of Saturnino Niaga *** (rendering him unconscious and) thereby inflicting upon him fatal wounds which caused his death soon thereafter."

After Dionisio had entered a plea of innocent and trial had been held, the Trial Court rendered judgment finding him guilty beyond reasonable doubt of the crime charged and, there being no attendant modifying circumstance, sentencing him "to the penalty of RECLUSION PERPETUA with the accessories of the law and to indemnify the heirs of the offended party in the sum of P30,000.00 and to pay the costs."

The verdict was made to rest chiefly on the testimony of two (2) eyewitnesses -- Amando Niaga, the son of the victim,[3] and Porferio Dinglasa, an uncle of the accused[4] -- as well as the ante-mortem statements of the victim, parol and written.

The testimony of the above named witnesses, in the Trial Court's view, establishes beyond reasonable doubt the material allegations of the indictment. It appears therefrom that at about 8 o'clock in the evening of August 21, 1977, a group of persons, after attending the cockfights at the Cerdeña Cockpit at Tabo-an (barrio Tolosa), left the place and began to walk back to their homes. The group consisted of Amando Niaga; his father, Saturnino; Dionisio Dinglasa; and the latter's uncle, Porferio Dinglasa. It was by all accounts a moonlit night, and they were walking in single file. Saturnino was in the lead, followed by Dionisio Dinglasa, then Amando Niaga, and then Porferio Dinglasa. After they had thus traveled for some time, Dionisio Dinglasa suddenly picked up a rock and threw it at Saturnino. Saturnino was hit at the back of the head and cried out to his son, Amando: "Help me, Dionisio has thrown a stone at me!" When Amando rushed to help his father, Dionisio also cast two (2) stones at him. One hit him in the back. Amando thereupon ran back to Taboan, sought out his relatives and together with some of them, forthwith returned to the place where Saturnino had been attacked. There they saw Saturnino, lying on the ground, face down. They carried him to the house of a person named Felix and called for Saturnino's wife, Crispiniana, who came very quickly. She asked Saturnino what had happened. He told her that Dionisio had thrown a stone at him.

The following day, a Monday, at about 7 o'clock in the morning, Saturnino was placed in a hammock and brought

to the hospital. On the way, he was asked by Sgt. Sergio Quiñanola, of the Malabuyoc Police Station, what had happened. With considerable difficulty and taking two seconds to utter a word, according to the officer, Saturnino replied that it was Dionisio Dinglasa who had injured him. At the hospital, Saturnino's statement was taken by Quiñanola and other police officers and reduced to writing on which Saturnino then affixed his thumb-mark. At this time, so Sgt. Quiñanola stated in Court, Saturnino was already very weak and could no longer write; he was still conscious though, and when asked how he felt, he had replied, "Maybe I will die." [5] Saturnino died two days later.

Dr. Benjamin Pace attended to Saturnino Niaga whom he described as sluggish and restless. He also described Saturnino's wound as a depressed fracture of the skull on the right parietal area caused by a blunt object, maybe a rock.

The defense sought to prove that Amando Niaga was not with his father, Saturnino Niaga, when the latter was attacked; that it was not Dionisio Dinglasa but his uncle, Porferio Dinglasa, who had in fact thrown the rock at Saturnino; and that Saturnino could not have given a statement to the police investigators at the hospital because when brought there, he was already unconscious.

The defense attempted to demonstrate the absence of Amando, and Porferio's authorship of the felony, principally through the testimony of Abdon Mayola, [6] who claimed to have been brought by Dionisio Dinglasa to the Cerdeña cockpit which he had not seen before, and to have afterwards accompanied the latter on the way home. The Trial Court however refused to accord him due credit because of several factors. For one thing, he did not see Porferio actually throw any stone at Saturnino, but merely surmised this. When asked if he had seen "Porfirio Dinglasa when he was throwing the stone," his answers were: " *** I was not able to see him because I was ahead of him and he should be the one who throw the stone because he separated from the group," and, "When I followed him I saw him but when he separated from the group and the stone was thrown I no longer saw him." [7] It also appeared to the Court a quo that Abdon Mayola was a "professional witness" (i.e., a witness for a fee), it having been shown that he had been a witness in several murder cases; had contradicted himself as regards the reason for his being at the place of the occurrence at the time; and was so unfamiliar with barrio Tolosa as to raise serious doubt about his ever having been there at all. [8] What the Trial Court obviously perceived as vital was that Dionisio's own uncle, Porferio Dinglasa, had categorically testified to Amando's presence and to Dionisio's culpability in the capital offense of murder, and that Porferio's account of that tragic incident was in every material respect substantially the same as Amando's.

The foregoing circumstances, coupled with Dionisio Dinglasa's suspicious conduct after the fatal event - he never reported the matter to the police authorities, he never bothered to go to the hospital to find out how Saturnino was, he instead went to Cebu City on the following day by a route (through Lala-o, Montanesa) which did not have to pass Malabuyoc Municipality, and stayed in the City for two (2) days -- and indications of his rambunctious and bellicose character by his prior convictions of various charges of malicious mischief and public disturbance, evidently impelled the Trial Court also to reject his protestations on the witness stand that it was not he but his uncle, Porfirio, who killed Saturnino Niaga. [9]

The defense also tried to denigrate the ante-mortem affidavit of Saturnino by presenting proof of his unconscious state when brought to the hospital. Dr. Teresita Ong deposed that it was she who had admitted Saturnino to the hospital at about 12:30 P.M. on August 22, 1977 and at that time, Saturnino could no longer talk, and his condition did not improve until she went off-duty. The Trial Court found however that her testimony was not consistent with the nurse's report to the effect that Saturnino was "received semi-unconscious;" the testimony of the medico-legal expert, Dr. Pace, who testified to the victim's "sluggish and restless" and deteriorating condition, but not that he could no longer speak; and the testimony of the police investigator; Sgt. Quiñanola, supra, who had

questioned the victim as he was being brought to the hospital, was present when the latter's statement was taken and reduced to writing at said hospital, and had himself seen to the placing on the document of the thumb-mark of the victim since the latter was then already very weak, could no longer write, and had expressed the belief that "(m)aybe *** (he) will die." The ante-mortem statement is also consistent with earlier oral statements made by Saturnino that his assailant was Dionisio Dinglasa, first to his wife, Crispiniana, and then to Sgt. Quiñanola.

In the appeal at bar, Dionisio Dinglasa asks this Court to accept his thesis that the Trial Court grievously erred in its factual findings and legal conclusions, above briefly set out. The Court however cannot see its way clear to doing so. On the contrary, after a thoroughgoing review of the record, the Court has reached the conclusion that the Trial Court had correctly analyzed and assessed the evidence and applied the law to the facts thereby established.

WHEREFORE, there being no reversible error in the appealed decision of the Trial Court, the same is hereby AFFIRMED in toto, with costs against the appellant.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Docketed as Criminal Case No. CU-3887

[2] Original Record, p. 27

[3] TSN, June 23, 1983, pp. 3-14

[4] Rollo, p. 310: Decision of Trial Court

[5] TSN, Jan. 18, 1984, pp. 90-96

[6] TSN, July 12, 1984, pp. 1-4; original records, pp. 160-163

[7] Rollo, p. 168

[8] TSN, July 12, 1984 pp. 5-9; records, pp. 164-168; rollo, p. 29

[9] TSN, Aug. 8, 1984, pp. 12-23; records, pp. 182 -193

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